

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YOUNG KWON, et al.,

Plaintiffs,

-against-

462 BKCS LTD., et al.,

Defendants.

20-CV-09105 (AS)

OPINION & ORDER

ARUN SUBRAMANIAN, United States District Judge:

This is a lawsuit for unpaid wages under the Fair Labor Standards Act and New York Labor Law. *See* Dkt. 38 ¶ 1. In addition, plaintiffs allege that defendants failed to provide proper wage notices, in violation of the New York State Wage Theft Prevention Act (WTPA). *See id.* ¶¶ 72–76. At a status conference held on September 13, 2023, defendants challenged whether plaintiffs had standing for those claims. The Court gave the parties the opportunity to submit additional authority for their respective positions. Plaintiffs failed to do so.

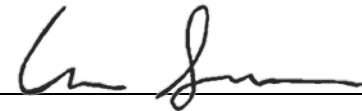
“Because the standing issue goes to this Court’s subject matter jurisdiction, it can be raised *sua sponte*.” *Cent. States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C.*, 433 F.3d 181, 198 (2d Cir. 2005). For the reasons explained below, plaintiffs’ wage notice claims are DISMISSED *sua sponte* for lack of Article III standing.

In their complaint, plaintiffs allege that defendants failed to provide the required wage notices. Dkt. 38 ¶¶ 74–75. As explained in this Court’s opinion in *Cartagena v. Sixth Avenue West Associates LLC*, No. 23-cv-03611-AS (S.D.N.Y. Sept. 28, 2023), at Dkt. 20, such allegations are insufficient. Plaintiff must identify the “downstream consequences from failing to receive the required information” because “informational injury that causes no adverse effects cannot satisfy Article III.” *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2214 (2021).

Plaintiffs may amend their complaint to cure the standing deficiencies identified in this order no later than October 13, 2023. If they choose to do so, they should provide specific factual allegations regarding how defendants violated the WTPA and the resulting harm. Plaintiffs are reminded that they will need to prove standing at trial.

SO ORDERED.

Dated: September 29, 2023
New York, New York

A handwritten signature in black ink, appearing to read 'Arun Subramanian', is written over a horizontal line.

ARUN SUBRAMANIAN
United States District Judge